



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**[MB Docket No. 16-306, GN Docket No. 12-268; DA 17-442]**

**Incentive Auction Task Force and Media Bureau Announce Procedures for the Post-Incentive Auction Broadcast Transition**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) provides guidance for low power television (LPTV), television translator (TV translator) and analog-to-digital replacement translator (DRT) stations (referred to collectively as “LPTV/translator stations”) regarding the post-auction transition period with the completion of the broadcast television spectrum incentive auction (Auction 1000). The purpose of this notice is to summarize and clarify the rules and procedures governing the post-auction transition for LPTV/translator stations.

**DATES:** [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Shaun Maher, Video Division, Media Bureau, Federal Communications Commission, [barbara.kreisman@fcc.gov](mailto:barbara.kreisman@fcc.gov), (202) 418-2324.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission’s document, DA 17-442; MB Docket No. 16-306, GN Docket No. 12-268, released May 12, 2017. The complete text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street SW., Washington, D.C. 20554, or

online at [http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2017/db0515/DA-17-442A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0515/DA-17-442A1.pdf).

### **Displacement Public Notice**

The Media Bureau will announce a limited window (Special Displacement Window) for LPTV/translator stations subject to displacement as a result of the incentive auction and repacking process to submit displacement applications. The Special Displacement Window will be announced after full power and Class A television stations reassigned to new channels in the repacking process have had an opportunity to apply for their preferred facilities. The exact dates for the Special Displacement Window will be announced by public notice (Displacement Public Notice) approximately seven to eight months after release of the Closing and Channel Reassignment Public Notice on April 13, 2017. The Displacement Public Notice will be released not less than 60 days prior to the opening of the Special Displacement Window. The Special Displacement Window will remain open for 30 days.

Channel Study. The Displacement Public Notice will provide channel availability data to assist eligible LPTV/TV translator stations in identifying potential new channels in the repacked TV bands, consistent with the Commission's direction in the LPTV DTV Third R&O. Specifically, the data will identify locations and channels where LPTV/translator stations cannot propose displacement facilities because of the presence of other non-displaced LPTV/translator stations, full power and Class A television stations or land mobile operations. The data will be based on use of the incentive auction software nationwide and the full power and Class A television station technical parameters in the Closing and Channel Reassignment Public Notice, as well as any full power and Class A television modifications proposed in the two alternate

channel/expanded facilities filing windows. The data will be provided on the same 2x2 kilometer basis as utilized in “TVStudy,” the repacking software used in connection with the incentive auction. While LPTV/translator stations applying for displacement channels will still be required to show that their proposals would not cause impermissible interference to other full power, Class A and LPTV/translator stations, identification of the locations and channels where eligible LPTV/translator stations cannot propose to operate will facilitate the LPTV/translator displacement application process by providing critical information on where applicants can do so. Stations are encouraged to use this information to help identify available channels and to use TVStudy to verify that the displacement facilities they propose will satisfy station needs while not creating harmful interference. Once a channel is identified, stations are encouraged to file for it during the Special Displacement Window.

Eligibility to File in Special Displacement Window. To be eligible to file in the Special Displacement Window, an LPTV/translator station must be both “operating” and “displaced.” “Operating” LPTV/translator stations are those that had licensed their authorized construction permit facilities or had an application for a license to cover on file with the Commission on April 13, 2017 - the release date of the Closing and Channel Reassignment Public Notice. In order to be “displaced” for purposes of filing in the Special Displacement Window, an LPTV/translator station must: (1) be subject to displacement by a full power or Class A television station on the repacked television band (channels 2-36) as a result of the incentive auction and repacking process, (2) be licensed on frequencies repurposed for new, flexible use by a 600 MHz Band wireless licensee, or (3) be licensed on frequencies that will serve as part of the 600 MHz Band guard bands (which includes the duplex gap).

Application Filing Procedures. Eligible stations may file a displacement application on FCC Form 2100 – Schedule C. Displacement applications will be treated as a “minor change.” There is no fee for filing a displacement application.

Limits on Modification. During the Special Displacement Window, all of the requirements of the current displacement rules will continue to apply (e.g., required interference showing and limits on transmitter moves) except for the requirement that displacement applications be submitted only after the primary station obtains a construction permit or license. Eligible digital stations may propose a change in transmitter site of not more than 48 kilometers from the reference coordinates of the existing station’s community of license. Eligible analog stations may propose a change in antenna location of not more than 16.1 kilometers.

In addition, eligible stations may apply only for a channel that remains allocated to broadcast television service (i.e., channels 2-36), and not for channels that have been repurposed for the new, flexible 600 MHz Band wireless services or reserved for the 600 MHz guard band and duplex gap (i.e., former television channels 38-51). In their displacement applications, stations will be required to demonstrate that they would not cause interference to the predicted service of: (1) all other primary users in the repacked TV Band or in adjacent bands including land mobile operations, (2) licenses and valid construction permits for LPTV/translator stations; (3) licenses and valid construction permits for full power and Class A stations that were not reassigned; (4) the post-auction channels of reassigned full power and Class A stations as reflected in the Closing and Reassignment Public Notice, and (5) the alternative channels and expanded facilities proposed during the two filing windows by reassigned full power and Class A stations.

So that as many potential channels as possible are available for operating LPTV/translator stations that are subject to displacement, stations are permitted to file displacement applications proposing pre-auction channels in the repacked television band (channels 2-36) that full power and Class A stations will relinquish as a result of the incentive auction and repacking process. This includes channels being voluntarily relinquished by relinquishment stations, channel sharee stations, and band changing stations as well as the pre-auction channels of stations assigned to a new channel as a result of the incentive auction and repacking process. Ordinarily, such applications would be prohibited by the contingent application rule until such channels are actually vacated. The Media Bureau will look favorably, however, upon requests to waive the contingent application rule filed by operating LPTV/translator stations that are subject to displacement if the station can demonstrate that the requested channel is necessary to allow the station to continue to serve its current viewers. In addition, in order to comply with Section 73.3700(g)(2), the station must agree to a condition that it will not begin transmitting on the requested channel prior to discontinuation of operation by the full power or Class A station that is licensed to use that channel. If the conditional grant requires an LPTV/translator station to be silent for a consecutive 12-month period prior to discontinuation of operation by the full power or Class A station, the Media Bureau will consider a request for extension or reinstatement pursuant to Section 312(g) of the Act and a request for waiver of the applicable Commission rule.

Some LPTV/translator stations on channels in the repacked television band (channels 2-36) that would otherwise qualify as displaced stations may be able to avoid displacement by making minor changes to their existing facilities that bring those facilities into compliance with the interference rules. For example, an LPTV/translator station that will cause interference to a

full power or Class A television station post-repack may make a minor change in power, antenna height or location that would eliminate such interference and allow the LPTV/translator station to continue broadcasting on its channel. LPTV/translator stations are encouraged to file such minor change applications as soon as possible. To create a stable database for stations filing in the Special Displacement Window, approximately 30 days before the release of the Displacement Public Notice (which itself will be released no later than 60 days before the Special Displacement Window opens), the Media Bureau will issue a public notice freezing the filing of minor change applications by LPTV/translator stations. The freeze will be lifted upon the issuance of a later public notice after completion of the Special Displacement Window.

Mutual Exclusivity and Priority for Displaced DRTs and DTDRT Applications. All displacement applications submitted during the window will be considered filed on the last day of the window and will be processed in accordance with the existing rules. Consistent with the Commission having found that doing so would serve the public interest, applicants will be given an opportunity to resolve their mutual exclusivity through settlement or engineering amendment that may be submitted during a settlement window to be announced by the Media Bureau by separate public notice.

Should submitted applications remain mutually exclusive after the close of the settlement window, any application filed by a displaced analog-to-digital replacement translator (DRT) and any application for a new digital-to-digital replacement translator (DTDRT) will have priority over any application by a displaced LPTV and TV translator station. DRT displacement applications and DTDRT applications have co-equal processing priority. Unless mutually exclusive with a co-equal application, a DRT displacement application or DTDRT application

will be processed and, if granted, any pending LPTV and TV translator displacement application that is mutually exclusive with the granted application will be dismissed.

If two or more DRT and DTDRT applications remain mutually exclusive with one another after the close of the settlement window, the applications will be subject to the Commission's competitive bidding rules. Likewise, if two or more LPTV or TV translator applications are not subject to a priority application by a displaced DRT or for a new DTDRT and remain mutually exclusive after the close of the settlement window, the applications will be subject to the Commission's competitive bidding rules.

Construction Period, Extension of Time, and Tolling. Displaced LPTV/translator stations may be analog or digital and different construction periods apply to each type. A displaced LPTV/translator station operating in digital will have three years to construct its displacement facility. A displaced LPTV/translator station operating in analog is not subject to the three-year construction period. Rather, displaced analog stations are subject to the digital transition deadline of July 13, 2021 adopted in the LPTV DTV Third Report and Order. No later than this date, the displaced analog station must begin operating a digital facility or go silent. Upon completion of construction and initiation of service on their new channel, stations are required to submit an application for license by electronically filing FCC Form 2100 – Schedule F on LMS within 10 days.

Until March 13, 2021, any displaced LPTV/translator station (either analog or digital) that is unable to complete construction of its displacement facility by its deadline may seek an extension of time to construct of up to 180 days. Stations anticipating the need for an extension must submit an extension application electronically via LMS on FCC Form 2100 – Schedule 337. An application for extension of time to construct must include an exhibit demonstrating

that failure to meet the construction deadline is due to circumstances that are either unforeseeable or beyond the licensee's control and that the licensee has taken all reasonable steps to resolve the problem expeditiously. Such circumstances include, but are not limited to: (1) delays in obtaining zoning or other approvals, or similar constraints; (2) inability to obtain equipment; or (3) financial hardship. The grant of an extension of time to complete construction on a new channel will in no way extend the deadline by which a station must terminate operations on its displaced channel.

After March 13, 2021, additional time to construct may be sought only pursuant to the Commission's "tolling" rule. The tolling rule provides that a construction permit deadline may be tolled only for specific circumstances not under the licensee's control, such as acts of God or delays due to administrative or judicial review. Stations must electronically file tolling requests via LMS. Stations may also seek a waiver of the tolling rule to receive additional time to construct in the case where "rare or exceptional circumstances" prevent construction. With respect to tolling waivers, the Media Bureau will look favorably upon requests where a displaced station can demonstrate that it is unable to construct due to circumstances resulting directly from the post-auction transition, such as the inability to procure necessary resources because resources are unavailable due to the full-power and Class A post-auction transition.

Silent Authority. If a station must go silent on its licensed channel prior to completing construction on its displacement channel, it may file a request for silent authority. We remind stations that a station may suspend operations for a period of not more than 30 days absent specific authority from the Commission. Stations that remain silent for more than 10 days must notify the Commission not later than the tenth day of their suspended operations by filing a



Suspension of Operations Notification via LMS. Stations that need to remain silent for more than 30 days must file a Silent STA via LMS. There is no fee for this filing.

The license of any station that remains silent for any consecutive 12-month period expires automatically at the end of that period, by operation of law, except that the Commission may extend or reinstate such station license if the holder of the license prevails in an administrative or judicial appeal, the applicable law changes, or for any other reason to promote equity and fairness.

### **Displacement Procedures**

Following the initiation of service by a repacked full power or Class A television station or receipt of notice of likely interference to a new 600 MHz Band wireless licensee, LPTV/translator stations must immediately eliminate the likelihood of interference or discontinue operations. In addition, LPTV and TV translator stations must cease operations on the 600 MHz guard band and duplex gap no later than the end of the transition period (July 13, 2020).

Stations on Channels 38-51. The repurposed spectrum associated with the 600 MHz Band Plan affects LPTV/TV translator stations operating on television channels 38-51 (614-698 MHz). The 600 MHz Band Plan is comprised of an uplink band (663-698 MHz) and a downlink band (617-652 MHz) for the 600 MHz Band wireless service (the 600 MHz Band), a duplex gap (652-663 MHz) between these bands (the 600 MHz duplex gap), and a guard band (614-617 MHz) between the downlink band and channel 37 (the 600 MHz guard band).

In the Incentive Auction R&O, the Commission established a process under which LPTV/translator stations may continue operating on channels that were reallocated for use by 600 MHz Band wireless licensees unless the stations are notified in advance by a 600 MHz Band

wireless licensee of likely interference with its operations in areas where it intends to commence operations. In addition, the Commission required that LPTV/TV translator stations must cease operations on the 600 MHz guard band and the duplex gap no later than the end of the transition period.

Continued Operation Permitted in the 600 MHz Band for Wireless Services Until Wireless Licensees Commence Operations or Conduct FFA Testing. Subject to the advance notification requirements below, LPTV/translator stations on channels that overlap with the 600 MHz Band (617-652 MHz / 663-698 MHz) may continue operating until a 600 MHz Band wireless licensee commences operations (as defined below) or conducts FFA testing in an area where a station operates. The obligation to cease operations or eliminate the likelihood of harmful interference will apply even if the LPTV/translator station has yet to receive a displacement construction permit. To the extent that a 600 MHz wireless licensee commences operations or conducts FFA testing in an area of its geographic license where harmful interference from LPTV/translator stations would not be likely, these stations may continue to operate.

“Commencing operations” is defined as the time when a 600 MHz Band wireless licensee conducts site commissioning tests. In this context, “site commissioning tests” include site activation and commissioning tests using permanent base station equipment, antennas and/or tower locations as part of wireless licensee’s site and system optimization in the area of its planned commercial service infrastructure deployment. The Commission provided for a limited exception to permit 600 MHz Band wireless licensees to undertake FFA testing (which occurs prior to site commissioning tests) on their licensed 600 MHz Band frequencies in limited areas,

free from potential interference from secondary and unlicensed users, because such testing will speed deployment of the 600 MHz Band.

The 600 MHz wireless licensee must provide notice to the LPTV/translator station of its intent to commence operations and the likelihood of receiving harmful interference from the station in the form of a letter, by certified mail, return receipt requested. The notice must indicate the date that the 600 MHz Band licensee intends to commence operations or conduct FFA testing, and must be delivered to the LPTV/translator station not less than 120 days in advance of that date.

Operations in the 600 MHz Guard Band and Duplex Gap. LPTV/TV translator stations must cease operations on the 600 MHz guard band (614-617 MHz) and the 600 MHz duplex gap (652-663 MHz) no later the end of the transition period (July 13, 2020). The 600 MHz guard band at 614-617 MHz band overlaps with a portion of television channel 38, and the 600 MHz duplex gap at 652-663 MHz overlaps with all of television channel 45 and portions of channels 44 and 46. LPTV/TV translator stations may need to cease operations on these channels earlier than the end of the transition period to the extent that the station operations on specific frequencies associated with these channels are likely to cause harmful interference to 600 MHz Band wireless licensees that commence operations or conduct FFA testing, subject to the advance notification requirements summarized above.

Stations on Channels 2-36. LPTV/translator stations on channels 2-36 displaced by full power and Class A television stations as a result of the incentive auction and repacking process must eliminate the actual or predicted harmful interference or discontinue operations upon initiation of service by the displacing full power or Class A television station on its new channel.

### **Channel Sharing**

In the LPTV DTV Third R&O, the Commission adopted rules to permit channel sharing between LPTV and TV translator stations. In the event that the incentive auction and repacking process causes either (1) the sharer station to be subject to displacement or (2) both the sharer and the sharee stations to be subject to displacement, the applicable station(s) must file FCC Form 2100 Schedule C - application for a construction permit – specifying the identical technical facilities during the Special Displacement Window proposing to share the channel, including a copy of the channel sharing agreement as an exhibit. If only a potential sharee's station is subject to displacement as a result of the incentive auction and repacking process, the potential sharee station may file an application to propose sharing the sharer's non-displaced facilities at any time after April 13, 2017 and is not limited to filing during the Special Displacement Window. Channel sharing stations will have three years to implement their shared facilities and may avail themselves of the extension and tolling provisions.

### **New Digital-To-Digital Replacement Translators**

In the LPTV DTV Third R&O, the Commission established a new digital-to-digital replacement translator (DTDRT) service to allow eligible full power television stations to recover lost digital service area that could result from the repacking process. The Commission concluded that full power stations may begin to file for DTDRTs beginning with the opening of the Special Displacement Window outlined in Section III and ending one year after completion of the incentive auction transition period. Accordingly, DTDRT applications must be filed by July 13, 2021.

Eligibility. Eligibility for DTDRTs is limited to full power television stations reassigned in the repacking process that can demonstrate: (1) a loss of a portion of their pre-auction digital

service area; and (2) that the proposed DTDRT will be used solely to fill in such loss areas, subject to an allowance for a de minimis expansion of the station's pre-auction digital service area. Applicants for DTDRTs must demonstrate a digital loss area through an engineering study that depicts the station's pre- and post-incentive auction digital service areas. In addition, applicants must demonstrate that the loss resulted from the station being repacked.

The Media Bureau may grant de minimis expansions of pre-auction digital service areas. Stations are required to show the need to site their proposed DTDRT facility with a de minimis expansion of the station's pre-auction digital service area. The Bureau will determine whether an expansion is de minimis on a case-by-case basis.

DTDRT Application Filing Procedures. Eligible stations may file an application for a DTDRT electronically through LMS on FCC Form 2100 – Schedule C. DTDRT applications will be minor change applications, and will be exempt from filing fees. Full power television stations shall have a three-year construction period to build their authorized DTDRT facilities. The provisions for extension of time and tolling, including the tolling waiver policy will apply.

Processing Priority. DTDRT applications will be afforded co-equal processing priority with displacement applications filed by full power television stations for their displaced analog-to-digital replacement translator stations (DRTs). Therefore, applications for new DTDRTs and displacement applications for existing DRTs will have processing priority over all other LPTV and TV translator applications including new, minor change, and displacement applications. Applications for DTDRTs may be filed commencing with the opening of the Special Displacement Window. All applications for new DTDRTs and displacement applications for existing DRTs filed during the Special Displacement Window will be considered filed on the last day of the window, will have priority over all other displacement applications filed during the

window by LPTV and TV translator stations, and will be considered co-equal if mutually exclusive. Following the close of the Special Displacement Window, applications for new DTDRTs will be accepted on a first-come, first-served basis, will continue to have priority over all LPTV and TV translator new, minor change or displacement applications, even if those applications were first-filed, and co-equal priority with displacement applications for existing DRTs filed on the same day.

### **Date For LPTV and TV Translator DTV Transition – July 13, 2021**

In the LPTV DTV Third R&O, the Commission extended the September 1, 2015 digital transition date until July 13, 2021. All construction permits related to the LPTV and TV translator digital transition and construction permits for new digital LPTV and TV translator stations are hereby extended to July 13, 2021, and stations' records in LMS will be updated to reflect this date. All LPTV and TV translator stations must terminate all analog operations by 11:59 p.m. local time on July 13, 2021 regardless of whether their digital facilities are operational.

As the Commission stated in the LPTV DTV Third R&O, although the digital deadline has been extended, stations that are not affected by the incentive auction “are encouraged to complete their transition to digital as soon as feasible after the completion of the auction.”

Transitioning LPTV and TV translator stations, including permittees of new digital LPTV/TV translator stations, that experience delays in completing their digital facilities may seek one last extension of time, of not more than six months, to be filed not later than March 13, 2021, which is four months prior to the new transition date of July 13, 2021. After March 13, 2021, LPTV and TV translator stations seeking additional time to construct digital facilities will be able to obtain additional time to construct only through the tolling provisions in the rules.

Stations may also seek a waiver of the tolling rule to receive additional time to construct in the case where “rare or exceptional circumstances” prevent construction. The Media Bureau will look favorably upon waiver requests where a station can demonstrate that it is unable to construct due to circumstances resulting directly from the post-auction transition, such as the inability to procure necessary resources because such resources are unavailable due to the full power and Class A post-auction transition.

To ensure that viewers are aware of the impending termination of analog service, stations must provide notification to viewers of their planned transition to digital. Stations have the flexibility to determine the frequency, length, and content of their notifications. For those stations with the technical ability to locally originate programming, viewer notification must be done on the air at a time when the highest number of viewers are watching. For those stations that lack the technical ability to locally originate programming, or conclude that airing of viewer notifications would pose a hardship, they may notify viewers by some other reasonable means, e.g., publication of a notification in a local newspaper or by contacting the originating station to relay a crawl or service advisory to the communities that would be affected.

### **Lifting of Freeze on Filing of Displacement and Digital Companion Channel**

#### **Applications To Be Announced In Future Public Notice**

The Media Bureau, on January 19, 2017, froze the filing of digital companion channel (DCC) applications and on June 11, 2014, froze the filing of displacement applications. The DCC and displacement application freeze will be lifted after the closing of the Special Displacement Window. The Media Bureau will announce the date the freezes are lifted in a future public notice, whereupon the Commission will once again accept DCC applications and displacement applications by LPTV/translator stations that are displaced pursuant to the rules.

Displaced LPTV/translator stations that do not qualify for the Special Displacement Window (e.g., permittees that were not operating as of the Closing and Channel Reassignment Public Notice) and stations that were eligible but do not file during the Special Displacement Window must wait until the freeze is lifted to submit a displacement application. In addition, the provisions concerning construction periods, extensions of time, tolling and tolling waivers apply to these displaced permittees/stations.

With respect to tolling waivers submitted by these displaced stations, the Media Bureau will look favorably upon requests where a displaced station can demonstrate that it is unable to construct due to circumstances resulting directly from the post-auction transition, such as the inability to procure necessary resources because such resources are unavailable due to the full power and Class A post-auction transition.

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